Remarks/Arguments

The Office Action mailed November 28, 2008 has been reviewed and carefully considered. No new matter has been added. No claims have been added or amended either. Claims 1-11 are pending in this application. Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested.

Claims 1 and 4-10 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Publication 2005/0066166 A1 to Chin et al. (hereinafter "Chin"). Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chin, in further view of U.S. Patent 7,415,003 B1 to Ogura et al. (hereinafter "Ogura"). Claim 11 was rejected under 35 U.S.C.103(a) as being unpatentable over Chin, in further view of U.S. Patent 7,428,216 B2 to Siddiqui et al. (hereinafter "Siddiqui"). These rejections are respectfully traversed.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (*Lindemann Maschinenfabrik GmbH v. American Hoist & Derrik Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)) (emphasis added).

In view of the following discussion, the Applicant respectfully submits that none of the claims pending in this application are either anticipated by 35 U.S.C. § 102 or rendered obvious under 35 U.S.C. § 103. Thus, the Applicant believes that all pending claims are presently in allowable form.

The applicant's invention relates to a specific technique for controlling quality of service (QoS) levels within a wired network associated with a wireless Local Area Network (LAN) (pg. 2, lines 2-4). According to the invention, a determination is made regarding the appropriate QoS level for a frame that enters the network (pg. 2, lines 4-7; pg. 4, lines 8-10). Once a determination as to the proper service level has been made, the present invention assigns an identifier to the frame (pg. 4, lines 12-13), and that frame is then routed along a particular path on the basis of that identifier (pg. 4, lines 28-30).

On the other hand, Chin teaches a single chip which is capable of providing a variety of functions including, inter alia, switching/bridging, security, access control, clean hand off, anticipatory load management, and bandwidth management (Abstract; paragraph [0024]). Chin only provides a broad explanation of how the chip carries out the bandwidth management and QoS functions, explaining that Access Control Lists (ACLs) are "used for assigning the packet priority, policing, and bandwidth management" (paragraphs [0052]-[0053]). Thus, Chin fails to teach the specific method and apparatus used to control QoS levels as set forth in the applicant's claims.

With respect to claim 1, it is respectfully asserted that none of the cited references either taken singly or in any proper combination, teach or suggest, a method for controlling quality of service levels including the steps of *"associating with the received frame an identifier that identifies a path through the network having a transmission capability sufficient to provide the determined QoS level/service level; and routing the frame in the network in accordance with the associated identifier"*.

Moreover, with respect to claim 8, it is respectfully asserted that none of the cited references either taken singly or in any proper combination, teach or suggest, a wireless LAN which includes *"an administrative gateway for establishing a Quality of Service level/service level for the one information frame and for instructing the Access Point to assign an identifier to the frame in accordance with the QoS level/service level established for the frame; and a switch for routing the frame to a destination selected in accordance with the assigned identifier"*.

In both claims 1 and 8, an "identifier" is assigned to a frame and this identifier is used to route the frame through a particular path, depending upon the ascertained QoS level for that frame. In other words, there are a variety of paths, each of which are associated with a particular QoS level, and the identifier assigned to a particular frame determines which path (and thus which QoS level) the frame will take (pg. 4, lines 13-20).

Paragraph [0040] of Chin shows that the integrated chip described therein assigns a "VLAN id" to untagged packets, but the Examiner appears to mistakenly equate this "VLAN id" with the "identifier" referred to in claims 1 and 8. However, it is clear that this can not be so. Applicant's specification provides some clarity on this matter. On page 2, lines 12-15, it states:

> "Normally, the VLAN number designates the identity of the network end-point destined to receive the frame in accordance with the IEEE 802.1Q standard. However, in accordance with the present principles, the VLAN number is used in the network to select the appropriate path associated with a QoS level."

In light of the passage above, one of the distinctive features of the applicant's invention is its departure from the IEEE 802.1Q standard which is typically relied upon by those persons skilled in the art. Thus, the "identifier" referred to in applicant's claims is not used to designate the end-point in a network which will receive the frame, but rather is used to designate a particular "path associated with a QoS level".

To the contrary, it would appear that the "VLAN id" in paragraph [0040] of Chin designates the network end-point since there is no indication in Chin that the VLAN id described therein departs from the normal IEEE standard. Moreover, since there is no indication that the VLAN id used in Chin departs from this standard, and further, since there is no indication that the VLAN id refers to a particular path which is associated with a QoS level as required by the "identifier" in applicant's claims, the Examiner appears to be mistaken in equating the "VLAN id" in Chin with the "identifier" found in claims 1 and 8. Accordingly, claims 1 and 8 are patentable over Chin for at least this reason.

Moreover, since Chin can not be interpreted as teaching or suggesting the use of an identifier as described above, it logically follows that Chin can not be viewed as teaching or suggesting the step of "routing the frame in the network in

accordance with the associated identifier" as set forth in claim 1, or the element of "a switch for routing the frame to a destination selected in accordance with the assigned identifier" as set forth in claim 8.

The other cited references, Ogura and Siddiqui, also fail to cure the deficiencies of Chin. Ogura relates to communication network managing system (col. 1, line 66 – col. 2, line 44), and further discloses an element manager (col. 2, line 45 – col. 3, 10), a network manager (col. 3 lines 11-54), and a computer-readable medium (col. 4, line 49 – col. 5, line 51) for use in the system. It appears this reference was only cited by the Examiner to disclose the limitations set forth in claims 2 and 3 of the present application regarding the specific manner of how the QoS level is determined. Accordingly, like Chin, Ogura also fails to disclose or suggest an "identifier" which refers to a particular path that is associated with a QoS level as required by these claims. Therefore, claims 1 and 8 are patentable over Ogura for at least this reason.

Siddiqui also fails to teach or suggest the "identifier" set forth in claims 1 and 8. In general, Siddiqui relates to call processing techniques for providing a desired QoS for packet-based communications (col. 1, lines 17-21; col. 2, lines 18-24). While Siddiqui does involve QoS issues, this reference is only tangentially related to the problem in the present application. It appears that this reference was cited for the particular purpose of disclosing an element of claim 11 that was not disclosed in Chin (i.e. the routing gateway). Consequently, Siddiqui also fails to teach or suggest an "identifier" which refers to a specific path associated with a QoS level as required by claims 1 and 8. Therefore, claims 1 and 8 are patentable over Siddiqui for at least this reason.

Accordingly, the teachings of the cited references, either taken singly or in any proper combination, fail to teach or suggest all of the elements set forth in claims 1 and 8. Therefore, claims 1 and 8 are patentably distinct over the cited references. Moreover, "[i]f an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

All other claims depend from either claim 1 or 8, or a claim which itself is dependent from one of these claims. Thus, these claims include all of the elements found in the claims from which they depend. Accordingly, these claims are also patentably distinct over the cited references for at least the reasons set forth above with respect to independent claims 1 and 8.

Conclusion

In view of the foregoing, applicants solicit entry of this amendment and allowance of the claims. If the Examiner cannot take such action, the Examiner should contact the applicant's attorney at (609) 734-6820 to arrange a mutually convenient date and time for a telephonic interview.

No fees are believed due with regard to this Amendment. Please charge and fee or credit any overpayment to Deposit Account No. **07-0832.**

Respectfully submitted,

Guillaume Bichot, et al.

By: _____

Robert B. Levy
Attorney for Applicants
Reg. No. 28,234
Phone (609) 734-6820

Patent Operations
Thomson Licensing LLC
P.O. Box 5312
Princeton, New Jersey 08543-5312

February 25, 2009